



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,424	07/19/2000	Kwang S. Kim	DESS114787	1856

26389 7590 01/14/2004

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
----------	--------------

3724

DATE MAILED: 01/14/2004

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/619,424

Applicant(s)

Kim et al.

Examiner

Clark F. Dexter

Art Unit

3724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 23, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-33 is/are pending in the application.
- 4a) Of the above, claim(s) 23-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-22, 32, and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 18, 21 6) ☐ Other:

Art Unit: 3724

DETAILED ACTION

1. The amendment filed October 23, 2003 has been entered.

Information Disclosure Statement

2. The information disclosure statements filed September 11, 2003 (paper no. 18) and November 17, 2003 (paper no. 21) have been received and the references listed thereon have been considered. It is noted that Cite No. U47 has been lined-through because it has already been considered (see paper no. 17).

Drawings

3. The corrected or substitute drawings were received on October 23, 2003.

Claim Rejections - 35 USC § 112

4. Claims 15-22, 32 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, line 4, "the first conveyor" lacks positive antecedent basis; in line 8, the semi-colon ";" after "portions" renders the claim vague as to what is being set forth, particularly as to what structure is intended to be set forth by the claimed limitations.

Art Unit: 3724

In claim 16, line 2, "a first horizontal conveyor run portions" remains vague and confusing with respect to "a first conveyor run" set forth in claim 15.

In claim 20, lines 1-2, "a vacuum source" is vague and indefinite as to whether it refers to that previously set forth or to another such vacuum source; in line 2, "the second diagonal conveyor run portion" lacks positive antecedent basis.

In claim 21, line 2, "the second diagonal conveyor run portion" lacks positive antecedent basis.

In claim 32, line 4, "the underside of the foodstuff portions" lacks positive antecedent basis; in line 7, "the infeed end" lacks positive antecedent basis; in line 11, "the upper side of the foodstuff portions" lacks positive antecedent basis.

In claim 33, line 2, "the second conveyor belt" lacks antecedent basis.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37

Art Unit: 3724

CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 15, 16, 22, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobey et al., pn 3,850,088 in view of Chenery, pn 4,246,837 and Busseniers, pn 4,442,657.

Tobey discloses a cutting apparatus with almost every structural limitation of the claimed invention including a first conveyor run (e.g., 11, 19); a second conveyor run (e.g., 18), wherein the second conveyor run is clearly “capable” of carrying the foodstuff portions from the first conveyor run as recited; a vacuum source in registry with the second conveyor run and acting through the second conveyor run (e.g., through perforations 25a, 25b); and a cutting device (e.g., 23). Tobey lacks an explicit disclosure that the cutting device is adjustable. However, the Examiner takes Official notice that adjustable cutting devices are old and well known in the art and provide various known benefits including facilitating adjustment of the thickness/size of the work piece to be cut. Chenery discloses one example of such an adjustable cutting device. Therefore, it would have been obvious to one having ordinary skill in the art to make the cutting device of Tobey adjustable for the well known benefits including that described above. It is noted that it is clear that if the work piece is a thin, long work piece, one that is thinner than the gap between the conveyors, the second conveyor run is clearly “capable” of carrying such a work piece in the recited manner such that at least a portion of the work piece extends beyond the first conveyor run.

Art Unit: 3724

Regarding claim 22, Tobey lacks a third conveyor run as claimed. However, the Examiner takes Official notice that such conveyor run configurations are old and well known in the art and provide various well known benefits including transferring work pieces to other locations for further processing, storage, shipping, or the like. Busseniers discloses one example of such a conveyors. Other well known examples include a conveyor that is located underneath an end of an upstream conveyor for receiving work pieces therefrom; for example, the work piece falls off the end of the upstream conveyor onto the lower conveyor. Therefore, it would have been obvious to one having ordinary skill in the art to provide an output/third conveyor, for example, at the end of conveyor 15 disclosed by Tobey for the well known benefits including those described above.

Regarding claim 33, Tobey lacks a pressure source acting on the second conveyor belt as claimed. However, the Examiner takes Official notice that such pressure sources are old and well known in the art and provide various known benefits including assisting in the transferring/removal of a work piece from one conveyor, for example, when handling work pieces which may adhere or are in an environment which may cause them to adhere to the conveyor. Therefore, it would have been obvious to one having ordinary skill in the art to provide a pressure source at the end of the second conveyor of Tobey for the well known benefits including those described above.

Art Unit: 3724

Allowable Subject Matter

7. Claims 17-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers Technology Center 3700 are: after-final responses - (703)872-9303; other formal/official papers - (703)872-9302. The fax number for informal/draft papers - (703)305-9835.



**Clark F. Dexter
Primary Examiner
Art Unit 3724**

cf
January 12, 2004